



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 32494168

Date: AUG. 06, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a makeup artist and beauty training manager, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner meets the initial evidence requirements for this classification, either by demonstrating his receipt of a major, internationally recognized award or, alternatively, by satisfying at least three of the ten evidentiary criteria set forth in the regulations. The Director further determined that the Petitioner did not establish that his entry would offer substantial prospective benefits to the United States. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

An individual is eligible for the extraordinary ability immigrant classification under section 203(b)(1)(A) of the Act if:

- They have extraordinary ability in the sciences, arts, education, business or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- Their entry into the United States will substantially benefit the country in the future.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, the petitioner can demonstrate their

one-time achievement (that is, receipt of a major, internationally recognized award). If a petitioner does not submit this evidence, then they must meet at least three of the ten evidentiary categories found at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, published material in certain media and scholarly articles).

Where a petitioner demonstrates that they meet these initial evidence requirements, we then consider the totality of the material provide in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Amin v. Mayorkas*, 24, F.4th 383, 394 (5<sup>th</sup> Cir. 2022).

The Petitioner is a makeup artist who has worked in professional and managerial roles for well-known luxury beauty brands, most recently with [REDACTED] which employs the Beneficiary in its U.S. operations as beauty training manager for the Americas. The record reflects that he intends to continue working in this field.

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must demonstrate that he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner submitted evidence relating to the criteria at 8 C.F.R. § 204.5(h)(3)(ii), (iv), (vii), (viii) and (ix), summarized below:

- Published material in professional or major trade publications or other major media;
- Judging the work of others in the same or allied field;
- Display of work in the field at artistic exhibitions or showcases;
- Leading or critical roles for organizations that have a distinguished reputation; and
- High salary or other significantly high remuneration in relation to others in the field.

The Director determined that the Petitioner satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(viii) and (ix) by providing evidence that he has served in qualifying leading or critical role for an organization that has a distinguished reputation and has commanded a high salary for his services. The Director determined that the Petitioner did not demonstrate that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(ii) and (v); however, the Director did not acknowledge the Petitioner's claim that he has participated as the judge of the work of others in his field, under 8 C.F.R. § 204.5(h)(3)(iv).

On appeal, the Petitioner contends that the Director did not carefully review and consider the evidence and arguments he submitted in support of his claim that he meets the criterion at 8 C.F.R. 204.5(h)(3)(vii), noting that the decision does not acknowledge claims and evidence he submitted in response to the Director's request for evidence (RFE) which relate to this criterion. He also emphasizes that the Director failed to consider his assertion that he has participated as a judge of the work of others in his field under 8 C.F.R. § 204.5(h)(3)(iv) and the evidence he submitted in support of his claim.

Although we conduct de novo review, we conclude that a remand is warranted in this case because the Director's decision is insufficient for review. The Petitioner correctly asserts that the Director's

decision does not reflect consideration of his claims and evidence with respect to the criterion at 8 C.F.R. § 204.5(h)(3)(iv), nor does it reflect that the Director considered the Petitioner's response to the RFE in evaluating whether the Petitioner satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(vii).

An officer's written decision must fully explain the specific reasons for denial. *See* 8 C.F.R. § 103.3(a)(1)(i). When a decision does not meet this requirement, the petitioner does not have a fair opportunity to contest the decision on appeal. *Cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Because the Director's decision does not adequately address the claims and evidence submitted with respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vii), it does not fully explain the specific reasons for denial. Accordingly, we will remand the matter to the Director.

On remand, the Director is instructed to re-evaluate the evidence submitted in support of the petition to determine whether the Petitioner satisfied the plain language of at least three criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), and to issue a new decision. The Director should also review the Petitioner's appellate brief, which further discusses the previously submitted evidence provided in support of the evidentiary criteria and addresses the Director's determination that the Petitioner did not establish that his entry into the United States would offer substantial prospective benefits, as required by section 203(b)(1)(A)(iii) of the Act.

As noted, the Director already determined that the Petitioner satisfied two criteria. If the Director determines that he satisfied at least one additional criteria at 8 C.F.R. § 204.5(h)(3), the new decision should evaluate, based on the totality of the evidence in the record, whether he has demonstrated by a preponderance of the evidence, his sustained national or international acclaim, that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3).

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.